

THE OPEN UNIVERSITY OF SRI LANKA
FACULTY OF HUMANITIES AND SOCIAL SCIENCES
DEPARTMENT OF LEGAL STUDIES
LLB DEGREE PROGRAMME
LEVEL IV-LLU4707/LWU2313 FAMILY LAW
FINAL EXAMINATION -2023/2024
DURATION - THREE (03) HOURS



Date : 15th May 2025

Time : 1.30 p.m. – 4.30 p.m.

Students will be penalized for illegible handwriting.

Total number of questions 08.

Answer **FIVE (05)** questions only.

Please note that it is mandatory to discuss the answers for the questions chosen by you with reference to decided cases and statutory provisions.

1. Under Sri Lankan law, parties can enter into a valid marriage either by registering their marriage or by performing the relevant rites of a customary marriage."

Describe these two forms of marriage, focusing on the requirements of each of them.

(20 Marks)

2. Critically discuss the legal principles governing custody of children in Sri Lanka, with special reference to how the "best interests of the child" standard is applied in custody disputes. Your answer should include references to Roman Dutch law principles, and relevant case law.

(20 Marks)

3. Asanka and Vihangi got married in 2015. After the wedding, they moved into an apartment in Colombo. Initially, their marriage seemed peaceful, but within a year, Vihangi noticed drastic changes in Asanka's behavior. Asanka often came home late at night without any explanation and started spending excessive amounts of money on gambling. Whenever Vihangi questioned him, Asanka verbally abused her and accused her of being suspicious and untrusting. On several occasions, Asanka even physically assaulted Vihangi during arguments.

Matters worsened when Vihangi received anonymous messages with photographs suggesting that Asanka was having an affair with a co-worker named Tashini. When Vihangi confronted Asanka with the evidence, Asanka admitted the affair but refused to end it, claiming that he no longer loved Vihangi and that she should "get used to it or leave."

Despite this, Vihangi tried to reconcile with Asanka and suggested counseling, but Asanka showed no interest. After a particularly violent argument in 2023, during which Asanka struck Vihangi in front of her family members, she left the matrimonial home and moved back to her parents' house. Asanka has made no attempt to contact Vihangi or reconcile with her to date.

- i). Advise Vihangi on the legal remedies available to her. **(15 Marks)**
- ii). Would your answer be different if the couple was governed by Muslim law? Explain the reasons for your answer. **(5 Marks)**

4. Nayanajith and Yuwani got married in 2021 under the general law. They were employed in different districts, and even after marriage Nayanajith continued to work and live in Matara, while Yuwani worked in a government office in Anuradhapura and lived there. Although they visited each other occasionally, they mostly lived apart for work-related reasons.

In early -2024, Yuwani became pregnant and later gave birth to a baby girl. Nayanajith, however, refused to accept the child as his own. He claims that the child was born due to an intimate relationship Yuweni had with one of her office colleagues while they were living apart.

Yuwani insists that the child was conceived during one of Nayanajith's visits and denies any inappropriate relationship. She wants to prove that the child is legitimate and that Nayanajith is the child's father.

Advise the parties on applicability of the legal presumption of legitimacy to the above situation and the effect of recent developments on this presumption.

(20 Marks)

5. Udesh and Anushi were married in 2003 and have two children. In 2024, due to frequent domestic disputes, Anushi left the matrimonial home with the children and went to live with her parents. She is currently unemployed and financially dependent on her elderly father. Udesh, who works as an engineer, has refused to provide any financial support, claiming that Anushi left him without reasonable cause and is therefore not entitled to maintenance.

Anushi wishes to claim maintenance from Udesh for herself and her two children, who are now aged 14 and 20 years respectively.

Assume that you are Anushi's legal advisor and explain the legal remedies available to Anushi and her children under the Maintenance Act No. 37 of 1999 and Roman Dutch law.

(20 Marks)

6. **Briefly** discuss the legal validity of the following incidents:
- i. Siridasa is a wealthy businessman and a father of 3 children. He prepares a will, leaving all his property, to his personal assistant, Janali, who took care of him after he suffered a stroke.
 - ii. Jayanadan and Meenakshi are a couple governed by tesawalamai, who married in 2000 and have two children. Jayanadan dies intestate in 2024 and Meenakshi transfers a land she and Jayanadan had jointly bought in 2002 to her brother Shivanesh.
 - iii. Nelum and Bandara are a Kandyan couple who married in diga. They live with Bandara's family until 2013 when they move Nelum's parental home. Nelum's father dies intestate in 2024, and she claims his ancestral property.

- iv. Afrath and Fahimi, a childless Muslim couple adopt a Muslim boy named Hamsad. They die intestate in a plane crash and Hamsad claims their property.

(05 x 4 = 20 Marks)

7. Anita, an American postgraduate student, is conducting research on adoption laws in South Asian countries. Assume that she has contacted you to obtain accurate and detailed information about the legal provisions relating to adoption in Sri Lanka with a special focus on the different requirements applicable to Sri Lankan citizens and foreign couples (non-citizens) who wish to adopt a Sri Lankan child.

Prepare a note for Anita.

(20 Marks)

8. Write notes on the following:

- i. *Natalie Abeysundere v. Christopher Abeysundere* (1998) 1 Sri LR 185 (7 Marks)
- ii. *Ambalavanar v. Navaratnam* (1955) 56 NLR 422 (7 Marks)
- iii. Putative marriage (6 Marks)

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